REMARKS

OF

MR. CONGER, OF NEW YORK,

ON THE

PAYMENT OF THE GALPHIN CLAIM.

DELIVERED

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PAYMENT OF THE GALPHIN CLAIM.

The House having under consideration the report of the Select Committee, made on the letter of the Secretary of War, concerning the payment of the "Galphin Claim," and Mr. BURT and Mr. TOOMBS having addressed the House—

Mr. CONGER said:

Mr. Speaker, I do not propose to make use of this occasion to discuss at length and in detail the various questions embraced in the several reports of the select committee. That committee was raised at the instance and request of the Secretary of War, for the purpose of an investigation into the conduct of that officer as connected with the prosecution and payment of the claim of the representatives of George Galphin. The House very properly gave to the committee full and comprehensive instructions, embracing other matters connected with this case; and, in obedience to those instructions, we now have a report or statement of facts in the case, agreed to by a majority, and in addition, three minority reports, severally containing the arguments and conclusions of different members.

Were I disposed so to do, I have not the time to go over the whole ground occupied by this committee; and I shall, therefore, content myself in discussing such questions alone as seem to lie in my way in declaring the opinions that will govern my vote on the several resolutions reported. At the time these reports were made, and while the question of printing was under consideration, I was indebted to the courtesy of my colleague, [Mr. BROOKS]—who has discussed this whole subject submitted to the committee with an elaborateness, fearlessness, and ability that have done him great credit and honor—for the privilege of saying that, while I most heartily concurred in the views expressed by him, I should seek an occasion to express my own opinion before I might be called on to record my vote. That opportunity has now occurred; and without going into a *history* of this claim, the history of which has become renowned throughout the country, both for its antiquity and doubtful justice, it is proper briefly to recapitulate what all concede to be the main facts upon which it rests.

In 1773, the Creek and Cherokee Indians had become largely indebted to certain traders. With a view to an adjustment of the claims of these creditors, the Indians made a cession of a large extent of land in Georgia to Great Britain, then the Government of this country, with the stipulation that the moneys arising from a sale of the lands should be applied in satisfaction of such debts as might be found due from them to the traders. George Galphin was found to be a creditor, and his claim, to the amount of nine thousand seven hundred and ninety-one pounds fifteen shillings and five pence, was acknowledged by the British Government on the second of May, 1775. Commissioners were appointed by Great Britain to make sale of the lands and pay the debts; but the war of the Revolution breaking out before much had been done, the execution of the trust was defeated, the title of Great Britain in the lands extinguished, and her right and power to control them destroyed. The Colony of Georgia then asserted her claim to the lands, and proceeded at her own option and pleasure, acknowledging no incumbrance on them, to grant them away as suited her own purpose; but in 1780, when formally asserting her right to the land, she passed the following law in relation thereto:

"Whereas, certain persons, citizens of this, and of the State of South Carolina, and friends to the independency of the same, *claim* that the lands in the county of Wilkes were originally given up and ceded to the Government of Great Britain by the Creek and Cherokee Indians in satisfaction and discharge of certain debts and arrears due by the said Indians to said certain persons, commonly called Indian traders: Be it therefore enacted, that any person having, or *pretending to have, any such claim*, do lay their claims and accounts before this, or some future House of Assembly, to be examined; and whatever claims shall be found just and proper, and due to the friends of America, shall be paid by treasury certificates for the amount payable within two, three, and four years, and carrying six per cent. interest."

George Galphin died about the same time this act was passed, but whether before or after does not appear. At all events, he did not present his claim under it; but, in 1789, Thomas Galphin, his son and executor, presented it to the Legislature of that State, and though a favorable report was made upon it by the committee, it was not acted on by the Legislature. From that time down to the year 1840, or later, the claim was continued before the Georgia Legislature; but notwithstanding the law of 1780 and the fact that committees had several times brought in favorable reports, payment was not made nor was the claim recognized by the State. In 1836 it first made its appearance in Congress, whence, by proper nursing for twelve years, after having met with at least two adverse reports, it emerged on the night of the 12th of

August, 1848, and was transferred from the legislative to the executive branch of the Government for examination and adjustment. The law of this date thus transferring the claim, is as follows:

"*Be it enacted, &c.*, That the Secretary of the Treasury be, and he is hereby, authorized and required to *examine* and *adjust* the claim of the late George Galphin, under the treaty made by the Governor of Georgia with the Creek and Cherokee Indians, in the year 1773, and to pay the amount which may be found due to Milledge Galphin, executor of the said George Galphin, out of any money in the Treasury not otherwise appropriated."

Under this law the then Secretary of the Treasury (Mr. Walker) paid the sum of $43,518 97, being the same amount (£9,791 15s. 5d.) which the British Government had acknowledged was due in 1775. The question of interest on this sum was not formally passed upon by Mr. Walker; and when Mr. Meredith came into office, the claim for interest was pressed upon him for decision. It was finally allowed, and the sum of $191,352 89, being the interest from 1775, at six per cent., paid.

The connection which Mr. Crawford has held towards this claim has been that of agent or attorney, under an agreement with the heirs, made in 1833, by the terms of which he was to receive for his services one half the amount obtained.

Now, Mr. Speaker, I propose to inquire, in the first place, upon whom rested the obligation of payment in this case? That Galphin had an equitable, subsisting claim that ought, long since, to have been paid by somebody, will not be seriously doubted; and he made his claim, first, against the Indians, as the original debtors; second, against Great Britain, who by her agreement became the trustee of a fund for the payment of the claim; third, against Georgia, who usurped the fund; fourth, against the United States, because everybody else had refused to pay. I am disposed to believe that, subsequent to the Revolution, the claim was not good against Great Britain, and that that Government was under no obligation to pay it. Certainly, she was not liable, unless her commissioners had previously sold such quantities of the land as, under the trust, entitled Galphin to his debt, or some portion thereof; and though there is some reason to believe that such sale was made, there is not sufficient proof on the point to charge Great Britain, particularly when it is considered that the greater portion of the lands, at least, were appropriated by Georgia. If Great Britain was not, because of the Revolution that wrested the lands from her control, drove her from their possession, and made it impossible for her to discharge the trust, liable to Galphin, then Georgia alone must have been.

Sir, I am aware of the presumption, if not arrogance, I show in expressing this opinion, for in entertaining it, as I do, I find myself in opposition not only to all the Whig members of this select committee, but to the Attorney General of the United States. Notwithstanding this array of talent and station against me, however, I hope to express my views with becoming independence, and such dignity as allows every man to think and speak for himself and as he shall choose. Whatever shall be thought of my argument, it shall not be said that party shackles and political alliances control my speech or vote. There are no party attachments, as there is no personal friendship, that will induce me to restrain a thought or disguise a syllable. A member of the Cabinet and a Whig has asked an investigation. An investigation has been made, and I, for one, cannot shut my eyes to the conviction that it has placed that officer in a most unfortunate position before the country. The same investigation has brought the official acts of two other Whigs and members of the Cabinet in question; and I am free to say that they, too, do not stand blameless and exempt from censure. Entertaining these views, I cannot sustain the report of the Whigs composing the minority of the committee, nor shall I hesitate to declare my disapprobation of the official acts into which an investigation has been sought.

The liability of Georgia to pay this claim is founded in the clearest legal and equitable principles. In the language of the very able report of the gentleman from Ohio, [Mr. Disney,] "The proceedings of the war of the Revolution placed the State of Georgia in the stead of the British Crown, and she became seized of the latter's title and subject to its liabilities." Georgia, knowing the claim Galphin and others had on the lands, not only asserted her right to them, but she prevented Great Britain from executing the trust, while she appropriated the lands for her own purpose in defiance of the lien. Georgia, however, never directly acknowledged her liability, and it is less a matter of moment, whether she who has not paid ought to pay, than that the Government that has paid was not liable to do so. If the claim of Galphin was just, it is difficult to apprehend the argument that should exempt Georgia from payment under her law of 1780. It is true that law is guarded in its terms, and under it payment could not be made; unless, first, the claim was found just; and second, that it was due to one who fought on the right side in the Revolution; and Georgia has never acknowledged either the one or the other, but in her own Legislature doubt and suspicion have been cast over both. However much this might prejudice the justice of the claim on Georgia, I submit that it could not *create* a claim against the United States. Georgia had no title to these lands save what she derived by the conquest of the Revolution from Great Britain. And shall it be said that she can appropriate the lands to her own use and then require the United States to pay off an incumbrance to which she has herself succeeded? Every principle of honesty and fair dealing is violated by the assumption.

The Whig minority of this committee, as well as the Attorney General, seek to show that the United States, prior to the passage of the law of 1848, were liable for the payment of this claim; and one of the arguments made use of to this end, is drawn from the law of 1802, by which Georgia ceded to the United States certain territory. I am unable to see how the provisions of that law can aid such an argument. Georgia ceded the territory, and in consideration for so doing, the United States agreed to extinguish the Indian title to the residue of the lands in that State. Did this bind the United States to pay Galphin? Not at all. The Indians had no title remaining to the lands embraced in their cession to Great Britain in 1773, and they were in no manner in possession of them. Many of the lands had, at this time, already been granted away by Georgia, and so far from there being any title in opposition to that which she asserted, nobody was even interfering

with her disposition of the land. All the title of the Indians had become vested in Georgia, and the lien was the lien of Galphin. Nobody, therefore, could have understood that these lands were included among those to which it was necessary to extinguish the Indian title. But it is asked, in the report of the Whig minority, made by the gentleman from Kentucky, [Mr. BRECK,] "Could 'Georgia, before the claim of Galphin was paid, 'say the Indian title to those lands belonged un-'conditionally to the State? or, was it not a living, 'unextinguished title, which Georgia, to the ex-'tent of this lien, in equity and good faith, had no 'claim to?" The lien of Galphin and the Indian title, as the gentleman from Ohio, in his report, has well said, are two quite different things. The Indian title was made perfect in Great Britain; Great Britain gave Galphin a lien on that title to the amount of his debt acknowledged by her; and Galphin released all claim upon the Indians, relying only on the lien given him by Great Britain; Georgia succeeded to these rights and obligations, and has never pretended that the Indians had title or claim to a single foot of the lands.

Again, this minority of the committee say, "besides, the Indians, as a party to the treaty of 1773, had a just right to insist and require that its stipulations should be performed." The answer to this is, that the cession to Great Britain was not only for the benefit of the traders, but being accepted by them in satisfaction of their claims against the Indians, the Indians, to whom they had executed discharges, had no right or power to require the execution of the trust, for they were parties to no executory contract.

Another ground on which the Attorney General and the Whig members of the committee have placed the liability of the United States is this: It is alleged that these lands were appropriated by Georgia in donations and bounties to her soldiers, for services in the public defence in aid of the cause of the Revolution; and that the case comes within the principles of the act of 1832 in relation to payment of the pension debt of Virginia. Now, sir, admitting that the lands were appropriated in payment of services rendered the whole country in a common cause, the case does not come within the principles of that act. Virginia, by an act of her Legislature, had paid out of her own treasury a large amount in pensions to certain of her officers who had served in the Revolution. These payments having been made by Virginia for services rendered in the cause of our national independence, Congress, by the act of 1832, assumed this pension debt, and reimbursed her precisely as other States had been allowed for advances made on account of the public service. At best, then, this can be regarded as nothing more than a precedent for the passage of a law to pay Georgia the amount of the claim whenever she herself should pay it. By the act of 1790, funding the debts of the several States, each State was allowed its advances on account of the United States; but Virginia's pension debt not having been funded, Congress passed the law of 1832, and directly authorized its payment. If these lands, then, were donated as is claimed, it is fair to presume that they were credited to Georgia in the settlement of her accounts, and that she was allowed all they were worth. But whether they were credited and allowed or not is immaterial, so long as the debt of Galphin was not the debt of Georgia. Georgia never made it her debt. She has neither paid it nor acknowledged her liability to pay it. Nor would she ever admit the liability of the United States to pay it; but on the contrary, she has at all times and on all occasions repudiated it as a fraud upon this Government alike as upon herself. Georgia, then, does not come here to ask the benefit of the principle of the law of 1832, and Galphin has no right to ask it for her—much less had he a right to ask it for himself.

But I do not admit that the lands were appropriated for the support of the common cause of all the States. I have not seen the proof of this. Collaterally, they may have aided that cause, so far as they were donated to the State troops of Georgia, by making those troops more effective, but they were not used for the benefit of the United States. They were granted, to some extent, but to what is quite uncertain, to her own State troops as gratuities in addition to the donations made by the United States. In this, Georgia did no more than many other States did for their own troops. Such States as had land made donations to their own soldiers, but it was on their own account and at their own option. The land was their own, and they could use it as they saw fit. If Georgia thus used any of these lands, it was an appropriation of the fund which could make nobody but herself liable for the incumbrance charged upon it.

Thus far, sir, in the discussion of these questions, I have found my own opinion fortified, my judgment enlightened, and my argument approved, by both the report of the gentleman from Ohio and the report made by the chairman of the committee, [Mr. BURT.] But, sir, I must now leave these gentlemen, differing as I do with every member of the committee on the most important of all the questions involved in this investigation. That committee have reported to this House, as embodying the conclusions to which they have come, the following resolutions:

"1*st. Resolved*, That the claim of the representatives of George Galphin was not a just demand against the United States.

"2*d. Resolved*, That the act of Congress made it the duty of the Secretary of the Treasury to pay the principal of the said claim, and it was therefore paid, 'in conformity with law' and 'precedent.'

"3*d. Resolved*, That the act aforesaid did not authorize the Secretary of the Treasury to pay interest on said claim, and its payment was not 'in conformity with law' or 'precedent.'"

The first resolution is agreed to by the Democrats on the committee and disagreed to by the Whigs. There were, therefore, five votes in its favor to four against it. The third resolution is agreed to by the same vote, while the second is agreed to unanimously by both Democrats and Whigs. He who should charge that the vote on the first and third resolution was controlled by party considerations, indicating that political prejudice demanded censure from Democrats and approbation from Whigs, could not fail to see that the vote on the second resolution much more strongly justifies the suspicion of party prejudice. To justify the late Secretary of the Treasury, (Mr. Walker,) in the payment of the *principal* of the Galphin claim, this resolution was necessary. To justify the present Secretary (Mr. Meredith) in the payment of the *interest* on that claim, it was equally necessary. In uniting in the support of that resolution, therefore, the Democratic major-

ity and the Whig minority have each done what it found itself compelled to do in making a defence of the one and the other of these men, and in this resolution they have found common ground upon which to predicate a defence. The majority hold that there was no liability on the part of the United States except such as the act of 1848 created; and while they find in this act alone the authority under which *their* Secretary paid the principal, the minority are compelled to establish the liability of the Government prior to that time, and to bring it to the aid of that act for the authority under which *their* Secretary paid the interest.

Now, sir, I repudiate the doctrine of each and both, while I deny that that act either made it the duty of Secretary Walker to pay the principal, or that it was in any manner a recognition of the liability of this Government. I go further than this, sir. I say that Mr. Walker, in paying the principal of that claim, committed an act for which he not only ought to have been censured, but impeached and removed from office. It was a payment not only without authority of law, but in corrupt contravention of justice. None of his friends pretend to place his justification on the ground that anything was found due Galphin from the United States. On the contrary, the majority of the committee say that it was not a just demand against the United States. The gentleman from Ohio, in his report, says, "there was neither a legal nor an equitable obligation on the United States to pay this claim;" the chairman of the committee says, that "upon none of the grounds relied on could the United States be justly held liable for the claim;" nor does Mr. Walker himself pretend that anything was found due from the United States, nor that he even examined the laim for the purpose of ascertaining. Sir, I regret that my general approval of the argument of the gentleman from Ohio must be so far qualified as to except that portion of his report which asserts that the act of 1848 made it the duty of the Secretary of the Treasury to pay this claim. And in this connection, inasmuch as I regard that report as a most able and dignified paper, worthy the occasion, and highly creditable to the position of the gentleman, I desire to except another thing from any measure of praise and approval that I have bestowed, or shall bestow upon it. I mean his covert insinuation that the President of the United States had connected himself with the transaction, so far as to sustain and approve the mode in which the claim has been prosecuted and adjudicated. Indeed, the insinuation is more than this; but to whatever extent and in whatever degree it is intended to be charged that the President has participated in this fraudupon the Treasury, I am sure it is without truth or foundation. I agree with the gentleman in the disapprobation he expresses as to the official acts of Secretary Meredith, the Secretary of War, and Attorney General Johnson. No word of mine shall be uttered in defence of those acts, and I now denounce and condemn them as unjustifiable and dangerous; but no part of their responsibility is shared by the President; nor is there authority for connecting him with the transaction, in an attempt to sully his fair fame and bring reproach upon his character. Sir, he needs no defence from efforts like these. His character is everywhere a guarantee against corruption and dishonesty, both in his own acts and in his counsels to others. Whatever individual members of his Cabinet may have done in this matter, has been done on their individual, official responsibility, and not as the act of the Administration. The friends of the claim who may represent that it has the approval of the Executive, for the purpose of clothing it in more comely garb and to save it from utter infamy, will be sure to cast odium on the Administration, whatever strength the representation may give Galphin. No discreet friend of the President will make such representation. Whenever Galphin shall be admitted into the household of the Administration as a friend, it will be in the day of the dishonor and defeat, the prostration and infamy of that Administration. Let the responsibility rest where it belongs; but let not gentlemen on the other side of the House attempt to make party capital out of this question, until they can relieve their own Secretary (Mr. Walker) from the weight of odious responsibility resting on him by reason of his having first opened the Treasury to this antique and hoary-headed relic of the colonial time. Why did not the gentleman from Ohio denounce the first attack and draft upon the Treasury? That was the first great error, and he who committed it was first deserving the gentleman's denunciation. It will not do to condemn Mr. Meredith for the payment of the interest, and hold Mr. Walker blameless for paying the principal; and those gentlemen who do so can find less justification for their conduct in the act of 1848 than in the prejudices of party.

Sir, what is the act of 1848? I recollect the bill, and I recollect the time it passed this House, though it has been said that it passed *sub silentio* on the last night of the session, when but few members were in their seats, and fewer still knew what the bill was. It was, indeed, on a hot night of a dog-day session, when almost the business of a session was crowded into a few hours, and no time was left for examination. But I voted for the bill, as I had done for other bills of a like character, time and again, and as I have since done, because, without assuming, admitting, or recognizing a liability on the part of the Government, it transferred an examination and adjustment of a complex claim from Congress to a department where an examination and adjudication could the better be made. Such being the bill, I could have no objection to its passage; and the views which governed my own vote, I cannot doubt, induced others to vote for it.

What, sir, is the true, natural, and common-sense construction of that act? Mr. Walker says he "considered that the law clearly recognized the obligation of the United States to pay the claim, whatever it might be." But does it bear that construction? Did Congress so intend? If so, in what position is the gentleman from South Carolina, [Mr. BURT,] the gentleman from Mississippi, [Mr. FEATHERSTON,] and the gentleman from Pennsylvania, [Mr. MANN,] three of the majority of this committee, placed? They, each and all, say the claim was not a just demand against the United States, but that the law made it the duty of the Secretary of the Treasury to pay it. Now, sir, these gentlemen were, with myself, members of the last Congress, and with me they voted for that bill; or, at least, they did not oppose it, nor did either of them even object to its passage. If,

then, their construction of the law is correct, how do they stand excused for their action in binding the United States to pay what they say was an unjust claim which the United States ought not to have paid? By their action they assisted to make valid and just what they say was before invalid and unjust! By their aid the United States became bound to pay what they hold she ought always to have repudiated. This is the position in which these gentlemen are placed by their construction of the law; for it will hardly be denied that they gave the bill at least a negative support. For my own sake, more than theirs, and, more than all, for the sake of a just accountability as between Congress and the Secretary of the Treasury, I rejoice in the conviction that their construction is unwarranted and erroneous. If Congress had intended to recognize the justice and validity of the claim, and to pay it at all events, wherefore the necessity or propriety of referring it to the Secretary of the Treasury for examination and adjustment? If they meant to bind the Government, what was there for the Secretary of the Treasury to examine and adjust? And why an examination after the Government was bound? An examination was of no importance for any other purpose than to ascertain if the United States were liable to pay, and an adjustment by the Secretary was entirely unnecessary after that had been determined by Congress. It was the examination in reference to liability, and not adjustment as to amount, that Congress desired to transfer. The question of liability being settled, the adjustment of the amount was not difficult. As proof of this, it need only be mentioned that Mr. Walker paid the same amount that was liquidated by the British Government in 1775, only reducing the same to our own currency.

Mr. Speaker, I am not altogether ignorant of the strength of party prejudices; I know how they are accustomed to influence and control the judgment and the actions of men. I know, too, with what effect official patronage and power may be used to procure support for such measures as it is for the interest and credit of officials should be sustained, and it is by no means matter of surprise to find those who are active in sustaining Mr. Walker, on the one hand, and Messrs Meredith, Johnson, and Crawford, on the other. If the law of 1848 is not construed according to the second resolution, then is Mr. Walker disgraced. That construction will save him; and his friends hold him in too high regard not to insist upon that construction. The same construction is necessary to save Mr. Meredith from odium, and his patronage and good will, just at this time, are abundantly sufficient to procure opinions in favor of that construction.

In saying this, I do not mean to imply that there are gentlemen on this floor that can be influenced by such considerations. I do not thus judge the motives of members. But there are scribblers, pettifoggers, and hangers-on, out of this Hall, who, in their devotion to power that dispenses patronage, have gravely argued that Congress intended to authorize the payment of the claim, no matter *from whom due;* and that the law plainly and fairly directs the payment, though found to be due from the Indians, Great Britain, or Georgia, instead of the United States. This argument is so preposterous that it need only be stated to refute itself. Has this Government become so rich and liberal that it is willing to pay the debts of others? Has she become so lavish of the hard-earned treasure of the people that she will pay what the committee say she was not legally, equitably, or morally bound to pay?

But, it is said, if it was not intended that we should pay it unless it should be found due from the United States, it should have been so expressed in the law. The answer to this is, that as we are not in the habit of paying anybody's debts but our own, a law which in terms authorizes the examination and adjustment of a claim, and the payment of what shall be found due, can only mean that it shall be paid if found due *from us.* Affirmative words making payment dependent on this condition would be entirely useless; while, for the reason that nobody can suppose we intend to pay another's debts, affirmative words absolutely and unconditionally assuming the debt could alone be sufficient to authorize such construction.

Sir, I maintain that the plain duty of the Secretary of the Treasury, under that law, was to examine and inquire, 1st, Whether anything was due on that claim from the United States; and if so, 2d, To adjust and ascertain the amount that was due. That there might have been individual members who knew that the Secretary of the Treasury would construe it as he did do, I will not pretend to deny; for the claim had its special friends on this floor and around the Capitol. But if there were such, is it not reasonable to presume, that they had beforehand been informed of the construction that Mr. Walker would give it? I do not allege that the bill was artfully drawn for the purpose of securing the payment of the claim beyond mistake or peradventure, while all but its peculiar friends regarded it as merely instructing the Secretary to pay whatever should be found due from the United States, on a thorough examination of the justice of the claim, and the liability of the Government. Were that true, there would be more of fraud and corruption in this case than the evidence proves. Whatever the friends of the claim, however, might have known or thought in relation to the construction that would be given to the act, it cannot be believed that anybody else, who consented to its passage, entertained any idea that it could bear the construction of Mr. Walker, or that any attempt would be made to give it that construction. Sir, there was no chance for misconstruction, except such as might be found in a disposition to set Congress at defiance, and to appropriate the public funds without authority of law. It was no part of the duty of the Secretary of the Treasury to pay the claim, however just and meritorious, unless he should find that it was due from the *United States.* The liberality of Congress had not been exhibited by investing him with any such power. As the gentleman from Ohio has, with slight variation, well remarked in reference to another officer—whatever may have been liberal or illiberal, was not within his province to determine. He was not the almoner of the public bounty; nor had he a right to superadd to his duty of executing the law the kinder office of dispensing the liberality of the Government. He was the legal custodian of the public treasure. As the guardian of it, the people had a right to look for its protection.

Now, sir, another question involved in this matter, is the payment of interest by Secretary Meredith. I do not propose to discuss it as a legal question. It has been most ably discussed already, and I have no desire to run over the authorities that show most clearly and conclusivly that there was no authority in law or precedent for its allowance. Nor is it necessary for me to do so. Under the true and proper construction of the law of 1848, I hold that interest was not due unless it was first ascertained and determined that, outside the law, the principal was due from the United States. Nor even then should interest have been allowed. That law required the Secretary of the Treasury to examine and adjust the Galphin claim. What was that claim? What its extent? The specific, exact amount fixed by Great Britain, and none other. There was no claim for interest; it was for the principal alone. Again: no liability for interest rested on the Government, for the reason that the principal was paid, not because it was found due, but on the ground that the Government had assumed the claim. But if the claim *was* assumed, it was only the claim as made, and that did not include interest. The principal could not carry interest, unless it was paid as a just and valid debt; and those who hold, as I do, that the Government was neither liable for the claim, nor that she assumed it in the law of 1848, will not need the authorities to satisfy them that interest was improperly paid. But whatever the view taken of this question, I can find no groundon which interest could have been allowed, and Secretary Meredith in paying it, and Attorney General Johnson in advising it to be paid, have taken a responsibility that cannot be sustained, and ought not to be tolerated.

When this claim for interest was first presented to Mr. Meredith, he found the opinion of two of the late accounting officers of the Treasury against the allowance. He thereupon referred the case to Mr. Whittlesey, the Comptroller of the Treasury, by whom the question was again examined with great attention and ability. Mr. Whittlesey also reported against the allowance; but determined, as it would seem, to find some excuse or pretext for overruling these several able opinions, Mr. Meredith at last presented the case to the Attorney General, who finally delivered an opinion so much sought for, and of which he has himself the modesty to say, that it was "the only one which any lawyer of well-earned reputation could have given." With such amiable assurance I do not desire to come in conflict, but I will dare to say, that it will be most fortunate for the pockets of the people, when legal opinions on questions of interest shall be given by a law officer who has earned his reputation by practice in courts where justice has precedence over generosity, and the action of executive officers is held subservient to the control of Congress.

What Mr. Meredith ought to have done, in my judgment, was this: Having doubts upon the question, as he professed to have, and the amount involved being large, he should have submitted it to Congress, and taken their opinion as to what was their meaning two years ago, and not relied on an opinion of the Attorney General as to what it ought to have been or might have been. Congress holds the key of the Treasury, or should hold it, and if money may be taken from the public purse on the mere opinions of executive officers, then indeed is Congress a useless appendage to the Government. One "lawyer of well-earned reputation," under such a system, would do all the necessary legislation of the country, as well as attend to his other minor duties.

Of Mr. Crawford's connection with this case, I am disposed to say little in addition to what I have already said. The relation he holds towards the Government is one that made it highly indelicate and improper, that he should allow a claim in which he was himself so largely interested, to be prosecuted before either of the executive departments while he should remain the head of one of them. I care not whether his interest in the claim was known either to the Secretary of the Treasury, or the Attorney General, or both. The fact that he had an interest in the claim, and that he continued to aid, though not openly, in its prosecution for his own benefit, remains. I do not say he made use of his position to get this claim for interest allowed; nor does the impropriety of his conduct depend on this circumstance. He, without doubt, holds it to be proper, while in his official character he is required to pass upon claims and watch expenditures in one department, that he should continue the feed attorney for the prosecution of claims in another. But I cannot so regard it. It is something more and worse than impropriety; and as one humble Representative of a constituency who have a common pride and a common interest in a just, honest, faithful, and honorable administration of every department of this Government, I raise my voice against it now and ever.